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11 Attorneys for Plaintiff,
Sherry Halter
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13
14 UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
15

16 Sherry Halter,

Case No.:

17 Plaintiff,

COMPLAINT FOR DAMAGES

18 vs.

FOR VIOLATIONS OF:

19
20 D. Scott Carruthers, A Professional Law
21 Corporation,

**1. THE FAIR DEBT COLLECTION
PRACTICES ACT; AND
2. THE ROSENTHAL FAIR DEBT
COLLECTION PRACTICES ACT**

22 Defendant.
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JURY TRIAL DEMANDED

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1 Plaintiff, Sherry Halter (hereafter “Plaintiff”), by undersigned counsel, brings
2 the following complaint against D. Scott Carruthers, A Professional Law Corporation
3 (hereafter “Defendant”) and alleges as follows:

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5 **JURISDICTION**

6 1. This action arises out of Defendant’s violations of the Fair Debt
7 Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”), and violations of the
8 Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code § 1788, *et seq.*
9 (“Rosenthal Act”).

10 11

12 2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d), Cal. Civ.
13 Code 1788.30(f), 28 U.S.C. § 1331 and 28 U.S.C. § 1367.

14 15 3. Venue is proper before this Court pursuant to 28 U.S.C. § 1391(b), where
16 the acts and transactions giving rise to Plaintiff’s action occurred in this district and/or
17 where Defendant transacts business in this district.

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19 **PARTIES**

20 4. Plaintiff is an adult individual residing in Campbell, California, and is a
21 “person” as defined by 47 U.S.C. § 153(39) and Cal Civ. Code § 1788.2(g).

22 5. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3), and is a
23 “debtor” as defined by Cal. Civ. Code § 1788.2(h).

24 25 6. Defendant is a business entity located in Stanton, California, and is a
26 “person” as the term is defined by 47 U.S.C. § 153(39) and Cal Civ. Code §
27 1788.2(g).

1 7. Defendant uses instrumentalities of interstate commerce or the mails in a
2 business the principle purpose of which is the collection of debts and/or regularly
3 collects or attempts to collect debts owed or asserted to be owed to another, and is a
4 “debt collector” as defined by 15 U.S.C. § 1692a(6).

5 8. Defendant, in the ordinary course of business, regularly, on behalf of
6 itself or others, engages in the collection of consumer debts, and is a “debt collector”
7 as defined by Cal. Civ. Code § 1788.2(c).

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ALLEGATIONS APPLICABLE TO ALL COUNTS

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12 9. Plaintiff is a natural person allegedly obligated to pay a debt asserted to
13 be owed to a creditor other than Defendant.

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15 10. Plaintiff’s alleged obligation arises from a transaction in which property,
16 services or money was acquired on credit primarily for personal, family or household
17 purposes, is a “debt” as defined by 15 U.S.C. § 1692a(5), and is a “consumer debt” as
18 defined by Cal. Civ. Code § 1788.2(f).

19 11. At all times mentioned herein where Defendant communicated with any
20 person via telephone, such communication was done via Defendant’s agent,
21 representative or employee.

22 12. On or about February 2, 2017, Defendant called Plaintiff’s mother at
23 408-XXX-7830.

13. During a live conversation, Defendant disclosed to Plaintiff's mother that it was planning to file suit against Plaintiff for failure to pay the alleged debt.

14. Plaintiff, who was nearby when the conversation took place, interceded and spoke with Defendant directly.

15. During that conversation, Defendant repeated its threat that it was planning to file suit against Plaintiff if Plaintiff failed to pay the alleged debt.

16. At that point, Plaintiff requested that Defendant validate the alleged debt.

17. On or about February 7, 2017, Plaintiff received a letter from Defendant notifying her of the alleged debt and advising her of her rights to request validation of the alleged debt.

18. However, Plaintiff's right to request validation of the alleged debt was overshadowed by Defendant's threat to sue Plaintiff during the initial conversation.

19. Defendant's actions caused Plaintiff to suffer a significant amount of stress, anxiety, confusion and embarrassment.

COUNT I

**VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT, 15
U.S.C. § 1692, et seq.**

20. Plaintiff incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.

1 21. The FDCPA was passed in order to protect consumers from the use of
2 abusive, deceptive and unfair debt collection practices and in order to eliminate such
3 practices.
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5 22. Defendant attempted to collect a debt from Plaintiff and engaged in
6 “communications” as defined by 15 U.S.C. § 1692a(2).
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8 23. Defendant communicated with a person other than Plaintiff and stated
9 that Plaintiff owes a debt, in violation of 15 U.S.C. § 1692b(2).
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11 24. Defendant communicated with a person other than Plaintiff, Plaintiff’s
12 attorney, or a consumer-reporting agency regarding Plaintiff’s alleged debt, in
13 violation of 15 U.S.C. § 1692c(b).
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15 25. Defendant engaged in conduct, the natural consequence of which was to
16 harass, oppress, or abuse Plaintiff, in connection with the collection of a debt, in
17 violation of 15 U.S.C. § 1692d.
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19 26. Defendant used false, deceptive, or misleading representations or means
20 in connection with the collection of a debt, in violation of 15 U.S.C. § 1692e.
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22 27. Defendant threatened to take action that could not be legally taken or that
23 Defendant did not intend to take, in violation of 15 U.S.C. § 1692e(5).
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25 28. Defendant used false representations or deceptive means to collect or
26 attempt to collect a debt or obtain information concerning the Plaintiff, in violation of
27 15 U.S.C. § 1692e(10).
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29. Defendant used unfair and unconscionable means to collect a debt, in violation of 15 U.S.C. § 1692f.

30. Defendant overshadowed Plaintiff's right to dispute the validity of the alleged debt pursuant to 15 U.S.C. § 1692g(b) by pressuring Plaintiff to make an immediate payment towards such debt before sending Plaintiff proper written notice of the debt pursuant to 15 U.S.C. § 1692g(a).

31. The foregoing acts and/or omissions of Defendant constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

32. Plaintiff was harmed and is entitled to damages as a result of Defendant's violations.

COUNT II

**VIOLATIONS OF THE ROSENTHAL FAIR DEBT COLLECTION
PRACTICES ACT, Cal. Civ. Code § 1788, et seq.**

33. Plaintiff incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.

34. The Rosenthal Act was passed to prohibit debt collectors from engaging in unfair and deceptive acts and practices in the collection of consumer debts.

35. Defendant communicated with Plaintiff's family regarding the alleged consumer debt and for a purpose other than to locate the Plaintiff, in violation of Cal. Civ. Code § 1788.12(b).

5 37. Defendant did not comply with the provisions of 15 U.S.C. § 1692, *et
6 seq.*, in violation of Cal. Civ. Code § 1788.17.
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8 38. Plaintiff was harmed and is entitled to damages as a result of Defendant's
9 violations.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant for:

- A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
- B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A);
- C. Actual damages pursuant to Cal. Civ. Code § 1788.30(a);
- D. Statutory damages of \$1,000.00 for knowingly and willfully committing violations pursuant to Cal. Civ. Code § 1788.30(b);
- E. Costs of litigation and reasonable attorneys' fees pursuant to 15 U.S.C. § 1692k(a)(3) and Cal. Civ. Code § 1788.30(c);
- F. Punitive damages; and
- G. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

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DATED: March 15, 2017

TRINETTE G. KENT

By: /s/ Trinette G. Kent
Trinette G. Kent, Esq.
Lemberg Law, LLC
Attorney for Plaintiff, Sherry Halter